IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 20TH JULY 2006 / 29TH ASHADHA,1928

Bail Appl..No. 4198 of 2006

(CRIME NO.137/2006 OF HILL PALACE POLICE STATON)

PETITIONER/ACCUSED NO.II

SHIBU MATHEW, S/O. MATHEW,
AGED 30,
PANNARAKUNNEL VENMANI, IDUKKI,
RESIDING AT MAVUNGAL, UDAYAMPEROOR,
MANAKKUNNAM VILLAGE.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY
SMT.THANKOM.G

RESPONDENTS: STATE AND COMPLAINANT

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1. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKUALM.

2. CIRCLE INSPECTOR OF POLICE,
HILL PALACE POLICE STATION,
THRIPUNITHURA.

BY SPECIAL PUBLIC PROSECUTOR V.K. MOHANAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/07/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A.4198/2006

DATED THIS THE 20TH DAY OF JULY, 2006

O R D E R

The petitioner is the eleventh accused, in crime No.137/2006 of Hill Palace Police Station. It is alleged that the petitioner and others had conspired to murder one Ajeesh, CW2, in this case and the petitioner was fully involved in the conspiracy and also was instrumental in informing to the first accused, through a mobile phone, about the arrival of the said CW2 at the place of occurrence, which enabled the other accused to attack him, as pre-determined, in furtherance of their common intention. The motive alleged is that the said CW2, Ajeesh, is an occurrence witness in another murder case charged against some of the accused. The investigation officer of Hill Palace Police Station, had filed the final report against eight accused, under Sections 143, 147, 148, 449, 324, 326, 307, 302, 427 and 201 IPC read with Section 149 IPC and also under Section 27 of the Arms Act as well as Sections 3 and 4 of the Explosives Substances Act.

2. The learned Additional Public Prosecutor submitted that the accused 4, 6 and 9 are absconding and they could not be arrested. I had therefore, directed the learned Public Prosecutor to clarify, whether the prosecution is intending to proceed to hold the trial, with the available accused or the prosecution is to wait till the three absconding accused, mentioned above, are to be arrested before starting with the trial. It is now submitted that the prosecution would continue the trial of the case. It is further submitted that, if the petitioner, eleventh accused, is released on bail, he being a person, closely connected with the conspiracy as well as accomplishments of the occurrence, in furtherance of the intention of all the accused, in accordance with their prior plan, he would cause hindrance to the smooth conduct of the case. It is also submitted by the prosecution that the petitioner, because of his contact and influence, would exert all his force on the witnesses, and win them over.

3. As the prosecution is prepared to proceed with the trial of the case, despite the fact that accused 4, 6 and 9 are not so far arrested, I am not inclined to grant bail to the petitioner, the eleventh accused.

However, I direct the learned Magistrate, before whom the final report had already been filed, to commit the case immediately to the Sessions Court, so that the Sessions Court could take up the matter and expedite the trial. I further direct the learned Magistrate to commit the case, in any case within one month from today.

4. The learned Sessions Judge, immediately on receipt of the committal records, shall proceed with the trial. The prosecution shall fully co-operate for an expedite trial and disposal of the Sessions Case, as the accused are in jail. I direct the Court to dispose of the Sessions Case at the earliest and in any case within two months from the date of receipt of records, before that Court.

5. I also direct the learned Magistrate to transmit the records to the Sessions Court, specially recording the directions contained in this order.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs